

**DRAFT MINUTES  
CHILD DAY-CARE COUNCIL  
JULY 10, 2003**

**Present:** Mrs. Gail Johnson, **Chair**; Ms. Susan Ballard; Ms. Judith Beattie; Ms. Margaret Collins; Mr. Charles Finley; Dr. Bethany Geldmaker; Ms. Susan Hackney; Mr. William Harvey; Mrs. Dona Huang; Ms. Donna Peters; Dr. Novella Johnson Ruffin; Mrs. Lisa Shelburne, **Secretary**; Dr. Anita Simpkins; Ms. Carol Steele; Mrs. Donna Thornton, **Vice Chair**; Mrs. Deborah White

**Absent:** Dr. Jane Craig; Mr. Norman Crumpton; Ms. Terry Davis; Mr. Jay DeBoer; Mrs. Sondra Freeman; Ms. Deborah Moore Gardner; Mr. Adam Thiel

**Staff:** Mrs. Paula Scott Dehetre; Ms. Arlene Kasper; Ms. Edwina Williams

**Call to Order**

Mrs. Gail Johnson, Chair, called the full Council meeting to order at 10:05 a.m.

**Approval of Agenda**

Ms. Judith Beattie made a motion to accept the agenda. Mrs. Deborah White seconded the motion. Vote: unanimous.

**Introduction of New Council Members**

The new Council members present at the meeting were sworn in by Ms. Judy Anderson, Deputy Secretary of the Commonwealth. These members included: Ms. Margaret Collins, Mr. Charles Finley, Mr. William Harvey, Ms. Donna Peters and Dr. Anita Simpkins. The Chair noted that there will be an orientation for new members. Members of the Council introduced themselves.

**Remarks from Maurice Jones, Commissioner**

Mr. Jones announced that staff support to the Child Day-Care Council would move from the Division of Licensing Programs to Mr. Richard Martin, Policy and Planning Manager. The Commissioner thanked Ms. Arlene Kasper for her support to the Council for the past 15 years.

Mr. Jones stated that the center regulation is the foundation for children's learning. He recommended that program directors have 40 hours of management training, unless the director has previous management experience, and that there be a gradual phase-in so directors would eventually have a related credential, certificate or college coursework. He recommended that program leaders without a related credential, diploma or college coursework obtain more training and that additional experience and training be added to

qualification option A, 3 b. He recommended 15 hours of annual training for staff who work with children.

Mr. Jones noted that the Department has the capacity to train 13,500 providers a year although only 8,586 providers attended and approximately 5,000 individuals who enrolled for the training did not attend. To help with the absentee rate, the cost of training will increase. The Department offers two video training series and will begin taking advantage of teleconferencing opportunities once curriculum content can be updated. This should increase training opportunities for providers. The Department has funding for 4,500 scholarships a year although only 2,561 scholarships were awarded. Each scholarship provides three credit hours or 45 training hours. Mr. Jones mentioned that training, not just for providers but for others such as staff from local departments of social services, is a top priority for the Department. He noted that while the Department will provide training to providers, the Department should not be the sole source of training.

Mr. Jones recommended that the staff-to-children ratio for two year old children should be 1:8 and four years after the effective date of the regulation the ratio should be 1:7. The staff-to-children ratio for four year old children should be 1:10, and for school age children the ratio should be 1:18 and four years after the effective date of the regulation it should change to 1:15. He recommended the following group size limits: infants – 12 and four years after the effective date of the regulation 8, toddlers – 15 and four years after the effective date of the regulation 10, two year old children – 16 and four years after the effective date of the regulation 14, and three year olds to school age – 20.

Mr. Jones noted that his recommendations do not meet the National Health and Safety Performance Standards. He stated that the standards concerning qualifications, training, staff-to-children ratios and group size limits are important not just for quality care but for children's preparation for school. He thanked the Council for its work.

In response to a question, Mr. Jones clarified that the National Health and Safety Standards are guidelines and Dr. Bethany Geldmaker stated she would provide new members a copy of the National Standards.

### **Chair's Report**

The Chair welcomed Ms. Edwina Williams who has replaced Ms. Cynthia Clark and will be providing staff support. The Chair noted that she received a letter from Senator Stephen Martin, Chairman of the HJR 159 Subcommittee. This letter stated that the Subcommittee will not be making a recommendation concerning the abolishment of the Child Day-Care Council so this issue will not be discussed at the Subcommittee's September meeting.

The Office of the Attorney General provided a letter of assurance concerning the Council's proposed repeal of its Criminal Record Checks regulation and proposed Background Checks regulation. The regulatory package concerning background checks has been forwarded to the Department of Planning and Budget. The Office of the Attorney General provided a letter of assurance on the Council's proposed repeal of its General Procedures regulation. The Chair received correspondence from Dr. Elizabeth Whitley Baron, Co-Director of the Division of Child Care and Development, which lists the Virginia's community colleges and four year colleges offering programs of Early Childhood Development and Early Childhood Education.

The Chair noted the 2003-2004 meeting schedule and asked members to reserve these dates for Council meetings. She requested that new Council members let her know their preference for committee membership.

### **Approval of Minutes**

Ms. Beattie made a motion to accept the General Procedures minutes of the June 9, 2003 meeting. Ms. Susan Hackney seconded the motion. Vote: unanimous. Ms. Hackney made a motion to accept the June 12, 2003 meeting minutes. Ms. Carol Steele seconded the motion. Vote: unanimous.

### **Report on State Board of Social Services' Approval of Proposed General Procedures and Information for Licensure**

Miss Liz Dowdy, former Child Day-Care Council member, reviewed the comments she made on behalf of the Council at the State Board of Social Services meeting on June 18, 2003. She noted the following at the State Board meeting:

- Council agreed to direct staff to prepare the documents necessary to repeal its General Procedures regulation and to allow the State Board's General Procedures regulation to apply to child day centers;
- a number of minor corrections to the draft General Procedures regulation such as changing the reference from Department regulations to State Board and Council regulations; and
- the importance of the State Board and Council working together on training issues, which is required by the *Code of Virginia*.

She felt the State Board was open to suggestions and the Council will have a good relationship with the State Board. She also mentioned that collectively the Council has over a century of experience.

In response to questions, the following was stated:

- the General Procedures regulation covers issues such as types of licenses, fines, and the procedures to follow when a provider is out of compliance;
- the Council does not have authority for sanctions and appeals;

- the Council will make recommendations to the State Board;
- the Council has the authority to promulgate its own regulation and can do this at a later time if desired;
- allowing the State Board's regulation to apply to centers will reduce the number of regulations and avoid duplication;
- the State Board's General Procedures regulation has a new section on hearings that would not be in any Council regulation, which would result in centers having to refer to two regulations if the Council promulgated its own regulation;
- the State Board is receptive to changes and these will be incorporated at final adoption;
- previous legal opinion has stated that Council could repeal its General Procedures regulation and defer to the State Board's General Procedures regulation; and
- Council members may attend State Board meetings.

### **Approval of Proposed Repeal of General Procedures and Information for Licensure**

Mrs. White stated that she felt uncomfortable voting today on the proposed repeal of the General Procedures regulation because the new members may not understand the issues and other members were absent. Ms. Carol Steele stated that new members could abstain but still be counted in the quorum. Mrs. Donna Thornton made a motion to approve the proposed repeal of the General Procedures regulation. Ms. Steele seconded the motion. Vote: Ballard – yes, Beattie – yes, Collins – yes, Finley – yes, Geldmaker – yes, Hackney – yes, Harvey – yes, Peters – yes, Shelburne – yes, Simpkins – abstained, Steele – yes, Thornton – yes, White – no. Mr. Richard Martin stated that the public comment period on the proposed repeal of this regulation would probably occur in October and November.

### **Child Day Center Committee Reports and Discussion of Proposed Standards for Licensed Child Day Centers**

The committees concerning the center regulation met prior to the full Council meeting today. Changes made to the draft center regulation during these committee meetings are noted below. Mrs. White, Chair of Committee A, reported the following changes to the standards:

- 22 VAC 15-30-471 A 1 – delete “red or purple level” since there is no definition for air quality levels;
- 22 VAC 15-30-471 A 2 b – revise to state “a child who falls asleep in a place other than his designated sleeping location may remain if comfortable and safe” since center staff would move a sleeping child who is not comfortable or safe; and
- 22 VAC 15-30-484 C – delete this requirement about restraining children since only psychiatric hospitals offer training in restraining children.

The Council agreed to delete the sentence concerning air quality in 22 VAC 15-30-471 A 1 and revise the first sentence of this standard to state “outdoor activity, weather and air quality allowing, for at least...”

Mrs. Thornton, Chair of Committee B, reported the following changes to the standards:

- 22 VAC 15-30-90, Exception – reword for clarity so it states “centers may allow independent contractors to keep records on its employees or students when the center has a signed written statement that the contractor agrees to maintain the required files and will make them available to a department representative upon request”;
- 22 VAC 15-30-230 – revise to phase in management training for directors who do not have a college course in a business related field or management experience so a total of 40 clock hours of training is required three years after the effective date of the regulation (10 clock hours initially, 10 additional clock hours for a total of 20 clock hours one year after the effective date of the regulation, 10 additional clock hours for a total of 30 clock hours two years after the effective date of the regulation and 10 additional clock hours for a total of 40 clock hours three years after the effective date of the regulation); and
- 22 VAC 15-30-230 A 4 b – reformat.

Mrs. Thornton noted the following:

- the wording of 22 VAC 15-30-80 11 and 22 VAC 15-30-490 E 3 needs to be clarified after the public comment period;
- the training system in Virginia is flawed since there is no formal process of approving trainers or training and the access to state training classes is limited and restricted. Requiring more training without correcting the system will not be sufficient; and
- there will be a technical assistance document to list “child related” degrees.

The Council agreed to revise references to “child related” in the regulation to add “such as, but not limited to, elementary education, nursing or recreation.”

Regarding 22 VAC 15-30-230 A 4 b, Council members made the following comments:

- Section 63.2-1738 of the *Code of Virginia* addresses credentials for program leaders but not for program directors,
- some of the organizations listed in the *Code of Virginia* do not offer credentials,
- the organizations listed in the *Code of Virginia* have not been compared,
- there should be a study of the organizations listed in the *Code of Virginia* and
- the Department of Social Services should approve director credentials.

**Public Comment Period**

Dr. Jack Knapp, Executive Director of the Virginia Assembly of Independent Baptists, stated that improving the quality of child care with higher standards will increase day care costs, which could result in parents deciding to allow children to stay home alone. Because of this situation, a balance is needed. He stated that the best child care is provided by the child's mother. Costs to increase staff training and meet more restrictive staff-to-children ratios will be passed on to parents and families may already be taxed 40% of their income.

Dr. Rosemary Burton, with Minnieland, stated that her organization operates 80 centers. Some centers are located in Maryland where the standards are higher and she has experienced operational issues in this state due to the stricter standards. For example, she must meet certain staff qualifications when she has her own in-house training program. She expressed concern with moving quickly to increase the standards since this could have a negative effect on quality. For example, requiring higher staff qualifications could result in no one applying for the job and the center relying on substitute staff. She noted that in Harrisonburg there is no community college within a 60 mile radius so she teaches in this area of the state. She noted that provider training sponsored by the Division of Licensing Programs has a limit of four per center or chain unless the class is not full, and this limitation does not fully meet her corporation's needs.

Ms. Lisa Spector, from the Virginia Coalition of Quality Child Care, stated that her organization represents 175 individuals and 80 organizations. This organization supports the Council's efforts to promote the quality of child care. More specifically, the organization supports: removal of the word "minimum" from the regulation, use of the National Health and Safety Performance Standards for changes to the regulation, efforts to strengthen staff-to-children ratios, and efforts to establish group size requirements. She noted that the standards need to go further since they do not meet national guidelines. Centers need to be attracting qualified staff with adequate compensation.

Ms. Spector shared her perspective as a parent of two four year old twins and Chair of a child care board of a faith based organization. While five staff members out of eight have been employed for over 20 years, staff salaries average \$17,000 to \$22,000 and several staff members have to work a second job. She noted that 90% of a child's brain is developed by five years of age although most government funds are spent on children five through 12 years of age. This is an issue of proper allocation of public resources so there will be less remediation in kindergarten. She commended the work of the Council and noted that the children currently in care will be the people taking care of today's adults when they are elderly.

Miss Dowdy, Director of Evangel Child Care Ministries, stated that she has directed a center for 31 years. She noted that the Council has the authority and responsibility to promulgate center regulations and should decide what is best based on the members'

experience. Parent calls indicate that they are interested in the cost of child care and not accreditation. She recommended that the Council not over regulate so parents will continue to use regulated care instead of unregulated care. In her opinion, the high absentee rate at state provider training classes occurs because enrollment in the classes occurs months before the training is offered and some staff member have left their jobs in the meantime. Charging more money for training will result in staff members who remain in child care having to pay more for training. Also, providers sign up for training without knowing their future plans. There are other individuals from Southwest Virginia who would like to participate in the Council's public comment period but the distance to Richmond would require these individuals to leave early in the morning. She noted that parents have to work and cannot participate in the public comment period.

Mrs. Kim Hulcher, Regional Director of Bundle of Joy Child Care Centers, stated that she was shocked at the sharp change in the standards from last year. She noted that the Council is not considering the day-to-day realities of child care concerning staff qualifications, staff-to-children ratios and resilient surfacing. She recommended an economic impact study. In reference to the General Procedures regulation, she recommended that centers have a regulation separate from operators of adult programs since centers operate differently from these programs. She noted that over regulation would force individuals out of a job.

Mrs. Sharon Jones, former Chair of the Council, provided Council with a handout from a workshop she previously conducted. She questioned whether children are being used as political pawns and reviewed the fictitious scenarios from the handout, which included government recognition of one credentialing organization and one accrediting organization. She noted how these situations could limit competition and increase costs. She questioned whether decisions are being made in the best interest of adults instead of children. Mrs. Jones, as Executive Director of Alliance for Choices for Quality Child Care, stated that the state is interested in federal Head Start funds and referenced HB 2210, which would allow states to have greater control over Head Start programs.

### **Approval of Public Hearings**

The Chair raised the issue of having public hearings on the Council's proposed regulations. Council members noted the following: hearings in the evening would result in good attendance; satellite hearings would be more cost effective; departments of health, departments of social services, junior colleges and Head Start programs have access to teleconferencing; and Council members listen to comments at the hearings but do not respond to them at that time.

Ms. Beattie made a motion to have regional public hearings, to be defined, from 6:30 p.m. to 8:30 p.m. with satellite locations. Mr. Finley seconded the motion. Vote: unanimous. Mrs. Thornton made a motion that if the public hearings on the center regulation and the background checks regulation cannot be conducted at the same time,

there would be one hearing on the background checks regulation as an agenda item of a Council meeting but if that is not possible there would be one hearing in the central area of the state. Mrs. White seconded the motion. Vote: unanimous.

**Continuation of Child Day Center Committee Reports and Discussion and Approval of Proposed Standards for Licensed Child Day Centers**

Mrs. Thornton reported that Committee B revised the following standards:

- draft 22 VAC 15-30-260 A 3 b – revise to refer to an organization listed in § 63.2-1738 of the *Code of Virginia* and
- 22 VAC 15-30-310 C – revise to phase in more annual training (10 hours initially, 12 hours one year after the effective date of the regulation, 14 hours two years after the effective date of the regulation and 16 hours three years after the effective date of the regulation).

The Council agreed to require program leaders to be high school graduates or to have equivalent education; Mr. Finley, Dr. Simpkins and Ms. Kasper will work on the wording of this requirement since there may be various types of documentation for completion of home schooling. The revised wording would need to be used in draft 22 VAC 15-30-230 A 4 b & 5.

Regarding 22 VAC 15-30-260 B, the Council agreed to change “children with disabilities” to “children with special needs” so it would cover children who need special health care. Ms. Kasper will replace this terminology throughout the regulation as appropriate.

Regarding the increased requirements for annual training, Mrs. Thornton expressed the need for the Department of Social Services to move forward with additional provider training and stated that the Council needs to get involved with this training. Mrs. Dona Huang noted that there is not much time for the state to budget for this. Ms. Peters noted that she provides 26 hours of staff training a year and is able to obtain trainers who do not charge a fee. Mrs. Thornton noted that the public will state that the proposed training requirements cost too much and the Council will need to respond to these comments.

Dr. Bethany Geldmaker, Vice Chair of Committee C, reported the following changes to the standards:

- 22 VAC 15-30-10, definition of children with disabilities – revise to “children with special needs” and define as “children with developmental disabilities, mental retardation, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies or facilities”;



- 22 VAC 15-30-10, definition of communicable disease – revise to state “a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as louse, mosquito) or environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority”;
- 22 VAC 15-30-110 3 – revise to allow parents the option of notifying the center by the next business day except for life threatening diseases;
- 22 VAC 15-30-180 A – revise to clarify that tuberculosis screenings can be completed 21 days after employment or volunteering;
- 22 VAC 15-30-570 C – revise to allow centers the option of notifying parents by the next business day except for life threatening diseases;
- 22 VAC 15-30-10 – there is a need to define “body fluids” and Dr. Geldmaker will provide this definition to staff;
- 22 VAC 15-30-575 B 1 – revise to require the diapering area to be located in the building used by children; and
- 22 VAC 15-30-575 B 5 – revise to allow for a diaper storage system that is used in such a way that the staff member’s hand or the soiled diaper does not touch an exterior surface of the storage system during disposal.

Dr. Geldmaker made the following comments during her report:

- reportable diseases change daily so it is best not to list them in the standard,
- there is a possibility that a toxic build up could result with use of a sanitizer on wading pools when only ½ inch of water is used and the pool does not dry between uses,
- pull-ups will leak just like diapers in wading pools,
- exposure to a communicable disease should not be reported to parents until the child with the disease has been diagnosed;
- body fluids should include breast milk;
- there is an issue of accidental poisoning with use of a germicidal agent since ingestion of one teaspoon of alcohol could result in a coma,
- germicidal agents do not clean,
- the Departments of Health and Social Services are developing a four hour course on medication administration,
- approximately 50% of the states have medication training for providers,
- many medications such as Ritalin and heart medicine can kill if administered incorrectly,
- a sampling of licensing inspectors for citations concerning medications indicated that there were many errors and significant problems,
- Dr. Geldmaker will check with the Poison Control Center concerning the appropriateness of using a common bottle of insect repellent for numerous children, and

- the Department of Social Services mails information to over 10,000 providers, which can include updates on the Child and Adult Food Program.

The Council agreed to reword 22 VAC 15-30-570 C to state “when children at the center have been exposed to a communicable disease, the parents shall be informed...” The Council agreed to revise 22 VAC 15-30-610 to refer to an emergency evacuation plan that is developed in consultation with local or state authorities and to have Mrs. Huang and Dr. Geldmaker add the required components of the plan.

The following comments were made about 22 VAC 15-30-640 F, which was drafted to require one staff member or adult in addition to the driver when 16 or more children are being transported:

- there needs to be another adult if more than several children are being transported,
- there is no cell service in Southwest Virginia should an emergency occur during transportation,
- there was a situation where a child arrived comatose from an asthma attack during transportation,
- there is a need to consider the ages of the children, length of time the children are being transported and the distance traveled,
- this is an issue for parents, and
- perhaps staff-to-children ratios should apply when preschool age children are transported.

Mrs. Thornton continued her report of committee B changes to the standards, which are:

- 22 VAC 15-30-440 E – require a staff-to-children ratio of 1:8 for two year old children, 1:10 for three and four year old children and 1:18 for school age children;
- 22 VAC 15-30-440 J – delete this standard about a further phase in of group size limits; and
- 22 VAC 15-30-440 K – delete the second sentence, which states “four years after the effective date of the regulation, a staff member may not have more than 15 children assigned to him or each team of staff members may not have more than 30 children assigned to them.”

Mrs. Thornton requested the following statistics from staff: number of licensed centers in Virginia, number of children receiving subsidies in these licensed centers, percentage of children receiving subsidies in comparison to the number of children in enrolled in licensed centers, number of children enrolled in regulated facilities and number of staff employed in centers and their average hourly wage. She noted that in North Carolina 43% of children receiving subsidies for child care attended licensed centers. Virginia’s subsidy rate is not even at 50% so the change in staff-to-children ratios will have a greater impact on those centers providing care to more children receiving subsidized care.

Mrs. Lisa Shelburne, Vice Chair of Committee D, reported the following changes to the standards:

- 22 VAC 15-30-10, definition of primitive camp – add the word “or” after “system,”
- 22 VAC 15-30-340 B – revise to require the heating system to be approved in accordance with the Uniform Statewide Building Code instead of referring to “officially approved,”
- 22 VAC 15-30-370 C – revise to refer to “USBC” instead of the Uniform Statewide Building Code since 22 VAC 15-30-340 B was revised,
- 22 VAC 15-30-390 B, exception for warm water – move the exception to subdivision 4 of this subsection,
- 22 VAC 15-30-500 D – revise to prohibit the installation of any slide or climbing equipment to be used by preschoolers or toddlers when the climbing portion of the equipment is more than six feet in height,
- 22 VAC 15-30-500 J 4 – add the words “the designated” after the word “for,”
- 22 VAC 15-30-510 G – change the word “or” to “and” and
- 22 VAC 15-30-520 C – change the word “clothes” to “linens.”

In response to a question, it was noted that a low trampoline for a child with a disability could be allowed through a variance.

Mr. Martin reviewed the steps following the Council’s approval of the proposed child day center regulation. This includes a review by the Office of the Attorney General; an economic impact analysis by the Department of Planning and Budget, which will be published with the proposed regulation; and a policy analysis prepared by the Department of Planning and Budget. If the Office of the Attorney General recommends any substantial changes, the Council would need to revise the regulation. If the Office of the Attorney General recommends any nonsubstantial changes, Mr. Martin can make these changes and let the Chair of the Council know the changes. In response to a question, Mr. Martin stated that he was not in a position to state that more money would be appropriated for provider training although this is a priority for the Department of Social Services. In response to a question, Ms. Kasper stated that she would e-mail the proposed regulation to Council members as it is forwarded to the Department of Planning and Budget.

Ms. Beattie made a motion to approve the proposed child day center regulation and allow Mr. Martin to make technical changes as needed. Mr. Harvey seconded the motion. Vote: Ballard – yes, Beattie – yes, Collins – yes, Finley – yes, Hackney – yes, Harvey – yes, Peters – yes, Ruffin – yes, Shelburne – yes, Simpkins – yes, Thornton – yes. Mrs. Huang stated that the Council needs to do public outreach and let the public know the economic outcome. She noted that parents need to review the regulation and they may be willing to pay more for quality child care.

**Old Business**

No old business was brought before the Council.

**New Business**

The Chair noted that provider training should be reviewed at the September meeting.

**Adjournment**

The meeting adjourned at 3:30 p.m.